

MOBILE/MODULAR EXPRESS II, LLC
4309 Erdman Avenue
Baltimore, Maryland 21213

* IN THE
* CIRCUIT COURT OF MARYLAND

And

* FOR

**MOBILE/MODULAR EXPRESS REAL
ESTATE II, LLC**
4309 Erdman Avenue
Baltimore, Maryland 21213

* BALTIMORE CITY

*

*

Plaintiffs

*

v.

*

M SPACE HOLDINGS, LLC
874 Walker Road, Suite C
Dover, Delaware 19904

*

*

Serve on:

The Corporation Trust Incorporated
300 E. Lombard Street
Baltimore, Maryland 21202

* CASE NO: _____

*

*

Defendant

* * * * *

VERIFIED COMPLAINT

The Plaintiffs, Mobile/Modular Express II, LLC and Mobile/Modular Express Real Estate II, LLC, by and through their attorneys, Jennifer Ryan Lazenby, Emily K. Lashley and Whiteford, Taylor & Preston L.L.P., hereby file this Complaint for Breach of Contract against the Defendant, M Space Holdings, LLC, and state:

1. Plaintiffs Mobile/Modular Express II, LLC and Mobile/Modular Express Real Estate II, LLC are Maryland limited liability companies. Mobile/Modular Express II in the business of manufacturing, selling and distributing commercial modular buildings to businesses and members of the public in Baltimore City, Maryland and throughout the country. Mobile/Modular

Express Real Estate is in the business of purchasing, owning, developing, leasing, selling and controlling commercial real estate. The Mobile/Modular entities are hereinafter collectively referred to as "Plaintiff" or "MME". MME's principal offices are located at 4309 Erdman Avenue in Baltimore City, Maryland.

2. Defendant M Space Holdings, LLC (hereinafter referred to as the "Defendant" or "M Space") is a limited liability company duly formed and existing in the State of Delaware. M Space is a contractor, which regularly conducts business in Maryland.

3. Jurisdiction is proper because the Defendant transacts business in the State of Maryland and contracts to supply construction services in the State of Maryland.

4. Venue is proper because the Plaintiff operates its principal place of business in Baltimore City, Maryland.

5. On or about July 10, 2008, by Purchase Order No. P008-0651, M Space ordered services, equipment and materials from Miller Building Systems, Inc. (hereinafter referred to as "Miller") in the amount of \$104,932.00 (One Hundred Four Thousand Nine Hundred Thirty Two Dollars) for Job No. JOB08088 known as the Lowe's Project. A true and correct copy of the Lowe's Purchase Order is attached hereto as Exhibit 1A.

6. The services, equipment and materials for the Lowe's Project were provided by Miller to M Space on or about September 9, 2008. A true and correct copy of the Lowe's Bill of Lading is attached hereto as Exhibit 1B.

7. M Space accepted delivery of the services, equipment and materials from Miller for the Lowe's Project.

8. On or about September 9, 2008, Miller invoiced M Space for the services, equipment and materials delivered to and accepted by M Space in the amount of \$104,932.00 (One Hundred Four Thousand Nine Hundred Thirty Two Dollars). A true and correct copy of the Lowe's Invoice is attached hereto as Exhibit 1C.

9. M Space has not made any payment to Miller or anyone else on the Lowe's Invoice. The full invoice amount of \$104,932.00 (One Hundred Four Thousand Nine Hundred Thirty Two Dollars) remains due and owing.

10. Miller's Invoice for the Lowe's Project provides for the payment terms of "net 30 days" and past due Invoices are subject to 1½% (One and One Half Percent) per month finance charge. See Exhibit 1C.

11. On or about July 9, 2008, by Purchase Order No. P008-0838, M Space ordered services, equipment and materials from Miller in the amount of \$56,000.00 (Fifty Six Thousand Dollars) for Job No. JOB08136 known as the Waldorf School Project. A true and correct copy of the Waldorf School's Purchase Order is attached hereto as Exhibit 2A.

12. The services, equipment and materials for the Waldorf School Project were provided by Miller to M Space on or about August 26, 2008. A true and correct copy of the Waldorf School's Bill of Lading are collectively attached hereto as Exhibit 2B.

13. M Space accepted delivery of the services, equipment and materials from Miller for the Waldorf School Project.

14. On or about August 22, 2008, Miller invoiced M Space for the services, equipment and materials delivered to and accepted by M Space in the amount of \$56,000.00 (Fifty

Six Thousand Dollars). A true and correct copy of the Waldorf School's Invoice is attached hereto as Exhibit 2C.

15. M Space has not made any payment to Miller or anyone else on the Waldorf School's Invoice. The full invoice amount of \$56,000.00 (Fifty Six Thousand Dollars) remains due and owing.

16. Miller's Invoice for the Waldorf School Project provides for the payment terms of "net 30 days" and past due Invoices are subject to 1½% (One and One Half Percent) per month finance charge. See Exhibit 2C.

17. On or about May 21, 2008, by Purchase Order No. P008-0422, M Space ordered services, equipment and materials from Miller in the amount of \$360,816.00 (Three Hundred Sixty Thousand Eight Hundred Sixteen Dollars) for Job No. JOB08099 known as the Grand Blanc Project. A true and correct copy of the Grand Banc's Purchase Order is attached hereto as Exhibit 3A.

18. The services, equipment and materials for the Grand Blanc Project were provided by Miller to M Space on or about July 31, 2008. A true and correct copy of the Grand Blanc's Bills of Lading are collectively attached hereto as Exhibit 3B.

19. On or about July 30, 2008, Miller invoiced M Space for a portion of the services, equipment and materials delivered to and accepted by M Space in the amount of \$116,182.00 (One Hundred Sixteen Thousand One Hundred Eighty Two Dollars). A true and correct copy of the Grand Blanc's Invoices are collectively attached hereto as Exhibit 3C.

20. On or about July 31, 2008, Miller invoiced M Space for a portion of the services, equipment and materials delivered to and accepted by M Space in the amount of \$128,452.00 (One Hundred Twenty Eight Thousand Four Hundred Fifty Two Dollars). See Exhibit 3C.

21. On or about September 2, 2008, M Space wired payment in the amount of \$244,634.00 (Two Hundred Forty Four Thousand Six Hundred Thirty Four Dollars) for partial payment of the Grand Blanc Invoices. The balance due and owing on the Grand Blanc Invoices is \$116,182.00 (One Hundred Sixteen Thousand One Hundred Eighty Two Dollars).

22. Miller's invoices for the Grand Blanc Project provide for the payment terms of "net 30 days" and past due Invoices are subject to 1½% (One and One Half Percent) per month finance charge. See Exhibit 3C.

23. On or about October 30, 2008, Miller sold its assets to MME pursuant to an Asset Purchase Agreement. A true and correct copy of the Asset Purchase Agreement is attached hereto as Exhibit 4.¹

24. Pursuant to the Asset Purchase Agreement, Miller sold its \$277,114.00 (Two Hundred Seventy Seven Thousand One Hundred Fourteen Dollars) in receivables due and owing from M Space to MME. See Exhibit 4.

25. As of October 31, 2008, MME owns all of Miller's accounts receivable owed by M Space. MME has the right and title to collect the balance owed and all interest due thereon from M Space.

26. Despite repeated demand by MME, M Space refuses to pay any amount to MME.

¹ The Asset Purchase Agreement has been redacted such that only those portions pertaining to this particular matter have been attached to the Complaint as Exhibit 4 as the remainder of the document contains confidential information and the document itself is not the subject of this litigation.

27. As of the filing of this Complaint, MME has incurred damages caused by M Space's breach of contract in the amount of \$301,381.94 (Three Hundred One Thousand Three Hundred Eighty One Dollars and Ninety Four Cents), which is comprised of the principal amount of \$277,114.00 (Two Hundred Seventy Seven Thousand One Hundred Fourteen Dollars), plus interest charges in the amount of \$24,267.94 (Twenty Four Thousand Two Hundred Sixty Seven Dollars and Ninety Four Cents).

28. All of the above factual allegations and attached exhibits are verified by the Affidavits of J. Alexander Corckran, Secretary for MME, and Robert Winks, VP-Controller of MME and the previous COO/CFO/Treasurer Miller, which are attached hereto as Exhibit 5.

WHEREFORE, Plaintiffs Mobile/Modular Express II, LLC and Mobile/Modular Express Real Estate II, LLC respectfully request that this Court enter judgment in their favor and against Defendant M Space Holdings, LLC in the amount of \$301,381.94 (Three Hundred One Thousand Three Hundred Eighty One Dollars and Ninety Four Cents), which is comprised of the principal amount of \$277,114.00 (Two Hundred Seventy Seven Thousand One Hundred Fourteen Dollars), plus interest charges in the amount of \$24,267.94 (Twenty Four Thousand Two Hundred Sixty Seven Dollars and Ninety Four Cents) and any and other further relief as this Court deems proper.



Jennifer Ryan Lazenby
Emily K. Lashley
Whiteford, Taylor & Preston L.L.P.
Towson Commons, Suite 300
One West Pennsylvania Avenue
Towson, Maryland 21204-5025
(410) 832-2000
Attorneys for Plaintiffs,
Mobile/Modular Express II, LLC
and Mobile/Modular Express Real Estate
II, LLC